

CONDENSED

Page 111

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 -----X
5 ADONNA FROMETA,

6 PLAINTIFF,

7
8 -against- Index Case No:
9
10 07CIV6372

11 MARIO E. DIAZ-DIAZ, ALL AMERICAN HAULERS
12 RECYCLING,

13 DEFENDANTS.

14 -----X
15
16 DATE: January 11, 2007
17 TIME: 5:10 P.M.

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CONTINUED EXAMINATION BEFORE TRIAL of
the Defendant, MARIO E. DIAZ-DIAZ, taken by the
Plaintiff, pursuant to an Order, held at the
office of Wilson, Elser, Moskowitz, Edelman &
Dicker LLP, 150 East 42nd Street, 23rd Floor
New York, New York 10017 before Lorraine
DeSalvio, a Shorthand Reporter and Notary
Public of the State of New York.

1 APPEARANCES:

2 SLAWEK W. PLATTA, LLM
 3 Attorney for Plaintiff
 4 42 Broadway
 5 Suite 1927
 6 New York, New York 10004
 7 BY: SLAWEK W. PLATTA, ESQ.

8
 9 WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER, LLP
 10 Attorneys for the Defendants
 11 150 East 42nd Street
 12 New York, New York 10017
 13 BY: JOHN A. HSU, ESQ.

14 ALSO PRESENT
 15 ABLE DOCE-SPANISH INTERPRETER

16 * * *

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1 2 MARIO E. DIAZ-DIAZ, called as a
 3 witness, having been first duly sworn by a
 4 Notary Public of the State of New York, was
 5 examined and testified (through the Spanish
 6 interpreter) as follows:

7 EXAMINATION BY

8 MR. PLATTA:

9 Q. Please state your name for the
 10 record.

11 A. Mario E. Diaz-Diaz.

12 Q. Where do you reside?

13 A. 91 Sprint Street, Apartment 1,
 14 Passey, New Jersey 07055.

15 MR. HSU: This is a continuation
 16 from of the deposition of Mario
 17 Diaz-Diaz as from December 4, 2007.

18 MR. PLATTA: And let the record
 19 reflect that this deposition was
 20 supposed to start at 4:00, it is now
 21 5:10 and this is due to the defendant.
 22 Plaintiff's counsel and the translator
 23 and ma'am court reporter were present
 24 all the time as well as defense counsel.
 25 Q. Mr. Diaz-Diaz, good afternoon. How

1 FEDERAL STIPULATIONS

2 IT IS HEREBY STIPULATED AND AGREED
 3 By and between the counsel for the respective
 4 parties hereto, that the filing, sealing, and
 5 certification of the within deposition shall
 6 Be and the same are hereby waived;

7 IT IS FURTHER STIPULATED AND AGREED
 8 That all objections, except as to the form
 9 Of the question, shall be reserved to the times
 10 Of the trial.

11 IT IS FURTHER STIPULATED AND AGREED
 12 That the within deposition may be signed before
 13 Any Notary Public with the same force and
 14 effect
 15 As if signed and sworn to before this court.

16 * * * *

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 25

1 M. DIAZ-DIAZ

2 are you today?

3 A. A little tired.

4 Q. I will repeat what I said during
 5 the very beginning of the first deposition.
 6 I'll be asking you some questions about the
 7 accident that happened on February 14, 2007 and
 8 I'll ask you to keep your responses verbal, and
 9 please remember also that nods of your head
 10 will not be recorded by the court reporter.

11 A. Okay.

12 Q. And if you don't understand a
 13 question I ask you, tell me and I'll rephrase
 14 the question.

15 A. Okay, very well.

16 Q. If you need to take a break, you
 17 may do so, however, I ask that you respond to
 18 the question first.

19 A. Okay.

20 Q. And also, if I don't hear you
 21 saying you don't understand something, my
 22 understanding is that you understood the
 23 question and responded truthfully and
 24 adequately to every question asked.

25 A. Yes.

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 23 and ma'am court reporter were present
 24 all the time as well as defense counsel.

25 Q. Mr. Diaz-Diaz, good afternoon. How

Page 113

Page 115

1 M. DIAZ-DIAZ

2 are you today?

3 A. A little tired.

4 Q. I will repeat what I said during
 5 the very beginning of the first deposition.
 6 I'll be asking you some questions about the
 7 accident that happened on February 14, 2007 and
 8 I'll ask you to keep your responses verbal, and
 9 please remember also that nods of your head
 10 will not be recorded by the court reporter.

11 A. Okay.

12 Q. And if you don't understand a
 13 question I ask you, tell me and I'll rephrase
 14 the question.

15 A. Okay, very well.

16 Q. If you need to take a break, you
 17 may do so, however, I ask that you respond to
 18 the question first.

19 A. Okay.

20 Q. And also, if I don't hear you
 21 saying you don't understand something, my
 22 understanding is that you understood the
 23 question and responded truthfully and
 24 adequately to every question asked.

25 A. Yes.

2 (Pages 112 to 115)

Page 116

1 M. DIAZ-DIAZ

2 Q. Sir, previously we had marked
 3 Plaintiff's Exhibit 1, a police accident
 4 report. I'll ask that you have a look at that
 5 with permission of your counsel. When you are
 6 done looking at it, let us know.

7 MR. HSU: Don't say anything, just
 8 look at it and when you are done, tell
 9 us that you are done, okay.

10 A. Sir, did you ever see this document
 11 before that was marked as Plaintiff's.
 12 Exhibit 1?

13 A. This document?

14 Q. Yes.

15 MR. HSU: Yes or no.

16 A. This is a report from the police.

17 Q. That's correct. Have you seen this
 18 document before?

19 A. Yes, I've seen it.

20 Q. When did you see it?

21 A. The company who did the service
 22 asked me to go get it.

23 Q. What is the company that you just
 24 referred to?

25 A. All American Haulers.

Page 118

1 M. DIAZ-DIAZ

2 MR. PLATTA: Counsel, if you have
 3 objection, state it.

4 MR. HSU: I'm going to object
 5 because the question doesn't make sense.

6 A. No, I didn't see him. No, I didn't

7 see it.

8 Q. Did you draw any kind of diagram
 9 for the police officer at the scene of the
 10 accident?

11 A. No, sir.

12 Q. What was the sum and substance of
 13 the conversation, if any, that you had with the
 14 police officer at the scene of the accident?

15 A. I didn't speak with the police
 16 officer.

17 Q. Who did you speak to at the scene
 18 of the accident besides my client that you
 19 already testified to?

20 A. There was a lady, as I said before,
 21 in the ambulance there was a lady in the
 22 ambulance that spoke Spanish.

23 Q. What was the sum and substance of
 24 the conversation that you had with her?

25 A. She came over to me because I was

Page 117

1 M. DIAZ-DIAZ

2 Q. Did you see this police report at
 3 their office?

4 MR. HSU: Objection. He just said
 5 they asked him to go get a copy of the
 6 police report from the police station
 7 so.

8 Q. Sir, when was the first time that
 9 you saw this police report?

10 A. One or two weeks afterwards.

11 Q. At what location was it?

12 A. I don't recall right now, I don't
 13 recall exactly right now, but I know where it
 14 is.

15 Q. Was it at the police precinct?

16 A. Yes.

17 Q. Did you see the police officer who
 18 was preparing this police report?

19 MR. HSU: At the time that he
 20 picked up the report?

21 MR. PLATTA: No. At the time that
 22 the report was prepared.

23 MR. HSU: You are assuming it was
 24 prepared in his presence.

25 Q. Did you see him prepare it?

Page 119

1 M. DIAZ-DIAZ

2 at my truck and the police officer told me to
 3 go up to the truck. She was smoking, she was
 4 smoking and I asked, how is the lady I asked,
 5 and she told me that she is fine.

6 Q. Did you speak to anyone else?

7 A. No, sir.

8 Q. How long did you stay at the scene
 9 of the accident afterwards?

10 A. How long?

11 Q. Yes.

12 A. It was a little bit more than an
 13 hour until the police officer told me that I
 14 could go, I didn't leave.

15 Q. Okay, how did you leave the scene
 16 of the accident?

17 A. In my truck.

18 Q. Did you continue on your route to
 19 work that night or something else?

20 A. I continued in my job, in my work.

21 Q. How long did you work that night?

22 A. Well, that the hour until 12:00 in
 23 the afternoon.

24 Q. When was the first time that you
 25 reported this accident to your office?

3 (Pages 116 to 119)

Page 120

1 M. DIAZ-DIAZ
 2 A. It was something around 9:00 in the
 3 morning that the offices were open already.
 4 Q. And that was the first time that
 5 you had reported the accident to your
 6 superiors?
 7 A. Yes.
 8 Q. Do you remember what you told them?
 9 A. Yes, I told them that I had an
 10 accident.
 11 Q. Anything else?
 12 A. I only told them that I had an
 13 accident and nothing else.
 14 Q. What was the name of the person
 15 that you spoke with?
 16 A. There was a lady there who spoke
 17 Spanish her name was Denarius and I spoke to
 18 her in order for her to communicate with the
 19 other people.
 20 Q. Do you know who are the other
 21 people at the company?
 22 A. I don't know them personally, I
 23 just know that there is a person called Tony
 24 and that I have to speak to him about the
 25 accident.

Page 122

1 M. DIAZ-DIAZ
 2 MR. HSU: Note my objection to
 3 form.
 4 A. Repeat the question.
 5 MR. PLATTA: Read it back.
 6 [Whereupon, the requested portion
 7 of the record was read back by the Court
 8 Reporter.]
 9 A. Yes, they instruct us that when we
 10 have an accident only to call, that's it.
 11 Q. Do you know the number to call?
 12 A. No, no, I had a radio.
 13 Q. Is it like a CB radio?
 14 A. Yes.
 15 Q. Did you call to report this
 16 accident using the CB radio at night?
 17 A. No. At 9:00 in the morning I
 18 called.
 19 Q. Did you report this accident to
 20 anyone between the time when it happened more
 21 or less at 4:30 a.m. and 9:00 a.m.?
 22 MR. HSU: Besides the police that
 23 took a report?
 24 MR. PLATTA: He didn't take a
 25 report.

Page 121

1 M. DIAZ-DIAZ
 2 Q. Did you speak to Tony as well?
 3 A. No.
 4 Q. Was Denarius a translator?
 5 MR. HSU: Objection to that
 6 question. He didn't say that. She
 7 worked in his employment and she just
 8 helped translate for him.
 9 MR. PLATTA: Right, I'm asking if
 10 she was a translator.
 11 MR. HSU: Like a professional
 12 translator. Ask her what she did there.
 13 MR. PLATTA: Off the record.
 14 [Discussion held off the record.]
 15 MR. PLATTA: Back on the record.
 16 A. Denarius speaks Spanish.
 17 Q. Is she a professional translator at
 18 your office?
 19 A. She is simply an employee that
 20 worked there and speaks Spanish, and I told her
 21 that I had an accident, she communicated to the
 22 people in the office.
 23 Q. Is there any kind of procedure that
 24 you have to follow when an accident happens and
 25 it involves your truck at your company?

Page 123

1 M. DIAZ-DIAZ
 2 MR. HSU: It didn't mean they
 3 didn't report it, you didn't ask if he
 4 it provided them.
 5 MR. PLATTA: I'm asking about
 6 anyone including the police.
 7 A. What?
 8 Q. Did you report that you had an
 9 accident to anyone between 4:30 a.m. and 9:00
 10 a.m.?
 11 A. Only the person who I said.
 12 Q. Who is that?
 13 A. As I said before, I called Denarius
 14 in order for her to tell the other people and
 15 in order for her to tell the owners or officers
 16 of the company.
 17 Q. I understand. That was at 9:00,
 18 correct?
 19 A. It's around there because the
 20 offices don't open exactly at this time that
 21 you report to work.
 22 Q. My question is: Did you speak to
 23 anyone else between 4:30 a.m. and 9:00 a.m.
 24 besides this person?
 25 A. No, no.

4 (Pages 120 to 123)

Page 124

Page 126

1 M. DIAZ-DIAZ

2 Q. Did you call your wife?

3 A. No. I told her when I arrived.

4 Q. What did you tell her?

5 A. I told her that I had an accident
6 and I explained more or less, I told her that I
7 had an accident.

8 Q. What time did you tell her that?

9 A. I don't remember, I don't recall.

10 Q. Was it in the morning or afternoon?

11 A. I don't recall exactly because at
12 that time she was working in the morning.13 Q. Sir, did you use your CB radio at
14 any time between the moment when you got into
15 your truck on February 14th and the moment of
16 the accident?

17 A. No, no, I didn't use it, no.

18 Q. Was it on during that time?

19 A. Are you asking me if it was turned
20 on?

21 Q. Yes.

22 A. Yes, yes, when someone gets in you
23 turn it on.24 Q. Were you able to hear other drivers
25 speaking on the radio?

1 M. DIAZ-DIAZ

2 A. No.

3 MR. HSU: I'm objecting to the form
4 because it assumes that there were other
5 drivers. Was anyone speaking on the
6 radio while you were driving your car?7 Q. Was there anyone else speaking on
8 the radio at the time that you got to the truck
9 and the moment of the accident?10 A. No, at the time in the wee hours of
11 the morning there are only two trucks that go
12 into work, the other trucks are not working at
13 that time.14 Q. What is the procedure for using the
15 CB radio in other words, when did you use it?16 A. It's only used when we go to the
17 clients and then they call the company and the
18 company calls us to let us know if there was
19 any service that we didn't provide or if there
20 was an anything left behind or if there was a
21 stop that we didn't make.22 Q. Did you have a regular radio inside
23 the truck at the time of the accident?

24 A. Yes.

25 Q. Was it on?

1 M. DIAZ-DIAZ

2 MR. HSU: At what point?

3 MR. PLATTA: At any time before the
4 accident.5 A. Yes. From the moment that you
6 enter the office you removed it from the
7 charger and you put it into the truck and you
8 turn it on.

9 Q. Are you referring to the CB radio?

10 A. What is a CB?

11 Q. How did you call the radio where
12 you contact the base?

13 A. Walkie-talkie.

14 Q. Were you referring to the
15 walkie-talkie?16 A. It's like a regular radio like
17 those phones that sound.18 Q. My question is, did you have a
19 radio with music stations in your truck at the
20 time of the accident?21 A. No, no. That truck did not have a
22 radio.23 Q. During the last deposition we spoke
24 a little bit about snow tires and snow chains;
25 can you tell me if you remember if your car had

Page 125

Page 127

1 M. DIAZ-DIAZ

2 A. No.

3 MR. HSU: I'm objecting to the form
4 because it assumes that there were other
5 drivers. Was anyone speaking on the
6 radio while you were driving your car?7 Q. Was there anyone else speaking on
8 the radio at the time that you got to the truck
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19 any service that we didn't provide or if there
20 was an anything left behind or if there was a
21 stop that we didn't make.22 Q. Did you have a regular radio inside
23 the truck at the time of the accident?

24 A. Yes.

25 Q. Was it on?

1 M. DIAZ-DIAZ

2 snow tires at the time of the accident?

3 MR. HSU: Objection. This was
4 already asked and answered. You asked,
5 "Do you know when the last time that the
6 tires on your truck were changed and
7 answer was: "No, I don't remember".
8 Than you asked, "Can you tell me on the
9 day of the accident, did you check the
10 depth of the treads of the tires on your
11 truck before you starting driving on the
12 night of the accident, February 14th"?13 MR. PLATTA: Counselor, I know what
14 I said. I'm asking about snow tires we
15 didn't even talk about it.16 MR. HSU: Read back the last
17 question.18 [Whereupon, the requested portion
19 of the record was read back by the Court
20 Reporter.]

21 A. Of the last time I told you, no.

22 Q. No, you didn't have?

23 A. It did not have chains.

24 Q. I'm asking you about snow tires?

25 MR. HSU: Do you know if the truck

5 (Pages 124 to 127)

<p>1 M. DIAZ-DIAZ 2 had snow tires on it at the time of the 3 accident? 4 THE WITNESS: No, no. 5 Q. No, it didn't have or no, you don't 6 know if it had? 7 A. It did not have them. 8 Q. Was it a procedure at your company 9 at the time of the accident describing when you 10 had to put snow tires on the truck? 11 A. I don't put tires on. 12 Q. I understand that you don't. My 13 question is, do you know if there was a 14 procedure saying exactly when you do have to 15 put snow tires on the truck, not just for you 16 but for anyone? 17 MR. HSU: If anyone. 18 A. I don't know if they had that 19 procedure. 20 Q. Same question about snow chains. 21 Do you know if there were a procedure that has 22 to be followed as to when you are obligated to 23 drive your truck with snow chains on it? 24 MR. HSU: Note my objection to 25 form.</p>	<p>Page 128</p> <p>1 M. DIAZ-DIAZ 2 oil in the truck and as you are driving along 3 you check the brakes on the truck to see if the 4 brakes are working after you take off from the 5 shop. 6 Q. My question is: What did you do 7 that night to check the brakes? 8 MR. HSU: Asked and answered, don't 9 answer. 10 MR. PLATTA: Off the record. 11 [Discussion held off the record.] 12 MR. PLATTA: Back on the record. 13 Q. Again, what did you do that night 14 to check the brakes on your vehicle? 15 A. All the drivers before they turn on 16 their vehicles they check the fluids in the 17 car, they check the lights, they check the 18 tires. Again, another thing that we do is when 19 you get into the truck we have to check the 20 gauge to see if the air pressure on the brakes 21 goes up to 120 pounds, if it goes up to 120 22 pounds you know there is something wrong with 23 the brakes. 24 Q. That particular night, February 14, 25 2007, what did you do to check the truck, to</p>
<p>1 M. DIAZ-DIAZ 2 A. I don't know if they have that 3 procedure there. 4 Q. Did anyone at All American Haulers 5 ever tell you at certain times you had to put 6 snow chains on your truck? 7 MR. HSU: You are referring to 8 before the accident? 9 MR. PLATTA: At any time. At any 10 time before or after, yes. 11 A. No. They have never told me 12 anything. 13 Q. And sir, before you testified that 14 you checked the brakes in your truck, my 15 question is, how did you check that? 16 MR. HSU: Objection to the form, in 17 which are you characterizing his 18 testimony, it speaks for itself. 19 Q. Sir, did you check the brakes in 20 your truck on the night of the accident? 21 MR. HSU: Before the accident, 22 right? 23 MR. PLATTA: Yes. 24 A. As I said before, when you get into 25 the truck, you check the tires, you check the</p>	<p>Page 129</p> <p>1 M. DIAZ-DIAZ 2 check the brakes? 3 A. I came from New Jersey with the 4 brakes and they were working, I pumped them. 5 MR. HSU: Off the record. 6 [Discussion held off the record.] 7 MR. HSU: Back on the record. 8 Q. Sir, when you said that you pumped 9 the brakes, what was the reason for to you pump 10 the brakes? 11 A. When you pump the brakes when you 12 get up to 120 you pump the brakes in order to 13 get the pressure up. Sometimes it's at 90 so 14 you pump them to get them up to 120. 15 Q. Can you tell me when you did that 16 night? 17 A. Before I left. Before you leave 18 you have you to do it. 19 Q. At the time of the accident, can 20 you tell me what was your brake pressure? 21 MR. HSU: Note my objection to 22 form. 23 A. I couldn't tell you no, I could not 24 tell you. 25 Q. And when you pumped the brakes,</p>

Page 132

1 M. DIAZ-DIAZ

2 what was the air pressure?

3 A. I pumped the brakes in the yard.

4 Q. I understand. What was the brake
5 pressure at the time?6 A. At that moment it was 120. Another
7 method that you use is that you press the brake
8 peddle for one minute.9 Q. Did you check the brake pressure at
10 any time from the moment that you left the yard
11 until the moment of the accident besides the
12 moment that you just described?

13 A. That procedure is done in the yard.

14 Q. My question is; did you observe the
15 pressure of your brakes at any time before the
16 moment between the moment when you left the
17 yard until the moment of the impact?18 MR. HSU: Note my objection. It
19 assumes that he could see the pressure
20 on some gauge while he is driving the
21 vehicle.22 MR. PLATTA: I'll rephrase the
23 question.24 Q. Sir, how do you observe the
25 pressure of the brakes?

Page 132

1 M. DIAZ-DIAZ

2 Q. Now my question again; did you look
3 at this equipment that shows the pressure of
4 your brakes at any time from the moment when
5 you left the yard until the moment of the
6 accident?

7 A. Read back the question.

8 [Whereupon, the requested portion
9 of the record was read back by the Court
10 Reporter.]11 Q. As one has the opportunity, one
12 looks at the dashboard because one depends on
13 that, there is the oil pressure dial, there is
14 brake pressure dial, there is also the
15 equipment that shows you how fast the car is
16 moving, it's all on the dashboard and you have
17 to look at that?18 MR. PLATTA: Move to strike as
19 nonresponsive.20 Q. What I'm interested in, did you
21 physically look at the piece of equipment that
22 shows the pressure of the brakes at any time
23 between the time-out that you left the yard and
24 the moment of the accident?

25 A. You always have to observe it.

Page 133

1 M. DIAZ-DIAZ

2 MR. HSU: I'm going to allow this
3 one more time. It was asked and
4 answered.5 MR. PLATTA: Counsel, let him
6 answer it one more time.7 MR. HSU: That's it. You are going
8 in circles.9 A. That procedure is done in the yard
10 because if the brakes are bad then you can't
11 leave.12 Q. My question is: Is there any type
13 of equipment that shows you the pressure of the
14 brakes inside of the vehicle that you can see
15 while you are driving?

16 A. No verbal response.

17 MR. PLATTA: Repeat the question,
18 read it back.19 [Whereupon, the requested portion
20 of the record was read back by the Court
21 Reporter.]22 A. Yes, there is a piece of equipment
23 there, I don't remember the name, but it tells
24 you what the pressure is of the brakes as you
25 are driving the vehicle.

Page 133

1 M. DIAZ-DIAZ

2 Q. I don't understand, does that mean
3 that you looked at it?

4 MR. HSU: Yes or no.

5 A. Clearly, I looked at it, yes.

6 Q. How many times?

7 A. I don't recall, I don't remember.

8 Q. More than 10?

9 MR. HSU: He just said he didn't
10 recall.

11 MR. PLATTA: Can he estimate.

12 MR. HSU: Can you estimate how many
13 times you might have looked at it, can
14 you estimate, yes or no.

15 A. No, I can't estimate.

16 Q. When was the last time before the
17 accident you looked at the pressure of your
18 brakes?

19 A. I don't recall, I don't remember.

20 Q. Was it more than 10 minutes before
21 the accident?

22 A. I don't recall exactly.

23 Q. More than 30 minutes?

24 MR. HSU: Asked and answered. He
25 didn't recall.

Page 135

Page 136

1 M. DIAZ-DIAZ
 2 A. I don't know exactly.
 3 Q. Sir, when was the last time that
 4 your driver's license, Class A was renewed?
 5 A. Renewed?
 6 Q. Yes.
 7 A. May I check it?
 8 MR. PLATTA: Yes, with permission
 9 of counsel.
 10 MR. HSU: No. If you remember, all
 11 from your memory.
 12 A. One second, I believe it's renewed
 13 until 2011.
 14 Q. When was the last time it was
 15 renewed before today?
 16 A. Exactly, I don't recall, but in the
 17 beginning of the year I had to renew it because
 18 it was going to expire.
 19 Q. In 2007 or 2008?
 20 A. In 2007.
 21 Q. Is it fair to say that you renewed
 22 the driver's license before the accident
 23 happened?
 24 A. Yes.
 25 MR. HSU: Objection to the form.

Page 138

1 M. DIAZ-DIAZ
 2 but it was in the beginning of the year.
 3 Q. Which year?
 4 A. Last year, March or April.
 5 Q. 2007 or 2006?
 6 A. 2007.
 7 Q. Prior to that?
 8 MR. HSU: Objection, there was a
 9 line of questioning regarding his
 10 eyesight and eye examination already
 11 okay.
 12 MR. PLATTA: Yes.
 13 MR. HSU: When was the first time
 14 that you received a Jersey license prior
 15 to the date your eye vision checked.
 16 THE WITNESS: No, I didn't have any
 17 problems. When you go to the Department
 18 to Motor Vehicles first thing that you
 19 have is a check.
 20 MR. HSU: This was already asked
 21 and answered. Are you asking him a new
 22 question?
 23 MR. PLATTA: Yes.
 24 Q. When was the prior time prior to
 25 2007 when you had to renew your Class A

Page 137

1 M. DIAZ-DIAZ
 2 You can answer.
 3 A. Before, I don't recall if it was
 4 before or after. I don't recall, I don't
 5 remember.
 6 Q. Do you remember where you renewed
 7 your driver's license?
 8 A. The motor vehicle out there in
 9 Lodi, New Jersey.
 10 Q. At that time, did you have to
 11 undergo any type of an eye test?
 12 A. Not exactly because my medical card
 13 were current, the one that I had on me.
 14 Q. Was your vision checked at the time
 15 when you had to renew your Class A driver's
 16 license in 2007?
 17 A. I don't recall if they checked my
 18 eyesight, I believe it wasn't necessary.
 19 Q. Do you remember when was the prior
 20 time when had you to renew your driver's
 21 license prior to 2007?
 22 A. Yes, because I have to do my
 23 fingerprints for hazardous material.
 24 Q. So when was it?
 25 A. I don't recall exactly when it was

Page 139

1 M. DIAZ-DIAZ
 2 license?
 3 MR. HSU: You asked about in '99
 4 when you checked.
 5 MR. PLATTA: I'm asking about the
 6 Class A.
 7 MR. HSU: That's not the testimony.
 8 Q. Is Class A a driver's license, it
 9 seems to say that.
 10 MR. PLATTA: Off the record.
 11 [Discussion held off the record.]
 12 MR. PLATTA: Back on the record.
 13 Q. When was the last time prior to
 14 2007 that you had to renew your Class A
 15 driver's license?
 16 MR. HSU: Before you answer. Let
 17 the record reflect we have not had an
 18 opportunity, my client has not had an
 19 opportunity to review his earlier
 20 testimony. A transcript was provided to
 21 me today, January 14, 2008 from the
 22 December 4th deposition so this question
 23 is asked and answered but we're going to
 24 allow you to answer for this final time,
 25 if you know the answer.

8 (Pages 136 to 139)

Page 140

1 M. DIAZ-DIAZ

2 Q. When was the last time that you
3 renewed it?

4 A. It was March or April of last year.

5 Q. Last year, meaning 2006 or 2007?

6 MR. HSU: This is 2008 so last year
7 would be 2007.

8 A. 2007.

9 Q. And my question was, prior to that
10 time, when did you renew your driver's license,
11 Class A?12 A. I have a procedure that I have to
13 follow. I took out my driver's license in
14 1999, in that procedure I am changing from D to
15 A and you renew it every four years.16 Q. Again, when was the last time
17 before 2007 that you renewed your driver's
18 license, Class A?19 MR. HSU: He just answered. He got
20 it in '99 and he answered it's every
21 four years.22 Q. Did you renew the license in 2003
23 four years after you got it in 1999 and again
24 four years later in 2007?

25 A. I don't have the exact dates.

Page 140

1 M. DIAZ-DIAZ

2 yet, I think that was asked and answered
3 already.4 MR. PLATTA: Read back the
5 question.6 [Whereupon, the requested portion
7 of the record was read back by the Court
8 Reporter.]

9 Q. I want to know since when?

10 MR. HSU: This is scary. Explain
11 to him that he already testified and
12 then he will have the opportunity to
13 read it. Come outside and read the
14 testimony otherwise you give him the
15 questions and his answers on the record,
16 what he already testified to.17 MR. PLATTA: Let me ask you
18 something else. Did you actually
19 testify since when he had the
20 restrictions on the driver's license?21 MR. HSU: He testified that he had
22 the restrictions on the date of the
23 accident and he got the license in 1999.24 Q. Sir, did you have restrictions on
25 your driver's license in 1999 to wear glasses?

Page 141

1 M. DIAZ-DIAZ

2 Q. How many times did you all
3 together renew your Class A driver's license?

4 A. I renewed it last year.

5 Q. And was it the only time when you
6 renewed it?7 MR. HSU: How many times have you
8 renewed Class A since you first got it
9 in total?

10 THE WITNESS: One time.

11 Q. To operate the truck that you were
12 operating on the date of the accident, did you
13 have to have a Class A driver's license?

14 THE WITNESS: Yes.

15 Q. Sir, when you first got a
16 prescription for your glasses, was this
17 prescription only for reading?18 MR. HSU: Asked and answered. This
19 has all been gone over. You are not
20 attempting go back to this.

21 MR. PLATTA: Strike it.

22 Q. Sir, since when do you have the
23 restrictions on your driver's license for
24 wearing glasses?

25 MR. HSU: Objection. Don't answer

Page 141

1 M. DIAZ-DIAZ

2 A. They didn't give me a restriction.
3 How do I tell you, I needed glasses to read and
4 then with time I've had to go and fix them.5 MR. HSU: When was first time that
6 you had a restriction put on your
7 license that you had to wear glasses,
8 when was the first time, the first year?
9 His Answer was: That is when I did the
10 road test.

11 Q. What year is that, approximately?

12 A. I can't recall, I don't remember.

13 MR. HSU: Before 2007?

14 THE WITNESS: Yes, it was before.

15 Q. Before this accident?

16 A. Yes, it was before.

17 Q. Can you tell me if this was in

18 2000?

19 A. I don't have eight years with that
20 driver's license, I don't have eight years with
21 a CDL Class A driver's license.22 Q. How many years do you have with a
23 CDL?

24 MR. HSU: Hold on one second.

25 A. I don't recall now.

Page 144

1 M. DIAZ-DIAZ
 2 Q. Sir, did you have a restriction on
 3 your Class A driver's license in 2005?
 4 MR. HSU: Note my objection.
 5 A. Yes.
 6 Q. What about in 2004?
 7 A. I don't have an exact recollection
 8 of when it was. As I said before, previously I
 9 gave you the procedure of how it was that I
 10 went about getting this license.
 11 Q. I appreciate that. Do you have
 12 anything at home that would indicate the year
 13 or month when you started having restrictions
 14 on your driver's license?
 15 MR. HSU: Yes or no?
 16 A. Yes, I believe that I have it yes,
 17 I would have to look for it.
 18 MR. PLATTA: I'll call for the
 19 production of these records and put it
 20 in writing.
 21 MR. HSU: As far as I recollect,
 22 the accident wasn't in 2000, it was 2007
 23 and he said that he was wearing glasses
 24 at that time.
 25 Q. Sir, did you have in 2007 a valid

Page 146

1 M. DIAZ-DIAZ
 2 at the same time have a restriction on your
 3 Class A driver's license for wearing glasses
 4 and you wouldn't have it on a Class D driver's
 5 license?
 6 A. Class D, no, no, there is no
 7 reason.
 8 Q. Okay.
 9 MR. HSU: If you know.
 10 A. May I say the reason?
 11 Q. Yes, sure.
 12 A. When I had the Class C, now I'm
 13 remembering. I used to make deliveries for a
 14 company and I had to read maps and I couldn't
 15 read the letters on the map very well.
 16 MR. HSU: He's not asking you for
 17 your life story. Do you know why there
 18 is a difference for different classes D
 19 and A. Do you know why one has a
 20 restriction or no, you do you know why
 21 and if you do know, tell him why.
 22 A. Yes, there is a difference. Class
 23 D yes, because Class D is to drive regular
 24 four-door cars and the Class A is to drive
 25 trucks.

Page 145

1 M. DIAZ-DIAZ
 2 driver's license Class B?
 3 MR. HSU: I'm objecting. What is a
 4 Class B driver's license?
 5 A. I've never had a Class B, only
 6 Class A, CDL.
 7 MR. HSU: Are you withdrawing the
 8 last question?
 9 MR. PLATTA: I'm withdrawing the
 10 last question.
 11 Q. Did you have a restriction your
 12 driver's license, Class D at the time of the
 13 accident?
 14 A. No, and on my Class D I didn't have
 15 any restrictions.
 16 Q. Is there any reason why at the same
 17 time that you would have restrictions on your
 18 Class A license and not have a restriction on
 19 your Class D license?
 20 MR. HSU: If you know.
 21 A. Is there a reason?
 22 Q. Yes.
 23 A. If there a reason please tell me
 24 the question again.
 25 Q. Is there any reason that you would

Page 147

1 M. DIAZ-DIAZ
 2 Q. When you were talking about Class
 3 C, did you have a valid driver's license Class
 4 C at the time of the accident in 2007?
 5 A. Class A.
 6 Q. Class C?
 7 A. No, it wasn't valid.
 8 Q. When did it expire?
 9 MR. HSU: What does it matter? He
 10 didn't need a Class C to drive. If it
 11 was expired, it has no relevance in the
 12 case at hand. That's like asking for a
 13 pilot license. He didn't need to have
 14 one at the time of the accident.
 15 MR. PLATTA: His eye condition is
 16 an issue here.
 17 MR. HSU: You think it's an issue
 18 but it's not an issue.
 19 MR. PLATTA: I'll have to file a
 20 motion.
 21 MR. HSU: You will have to make a
 22 motion. You can try to make it an issue
 23 but it ain't an issue, trust me.
 24 MR. PLATTA: Off the record.
 25 [Discussion held off the record.]

10 (Pages 144 to 147)

Page 148

1 M. DIAZ-DIAZ
 2 MR. PLATTA: Back on the record.
 3 MR. HSU: Do you have a Class C
 4 driver's license?
 5 MR. PLATTA: On the date of the
 6 accident.
 7 A. In 2007?
 8 MR. HSU: No. Ever, did you have a
 9 Class C license?
 10 THE WITNESS: I had a Class C.
 11 MR. HSU: But it expired.
 12 A. You can't have two licenses, you
 13 can't have two passports, you can only have
 14 one.
 15 Q. Fine.
 16 A. Only one, you can only have one,
 17 when you changed from Class C to Class A they
 18 disqualify it and they punch it.
 19 Q. Did the Class C driver's license
 20 have any restrictions?
 21 A. No, it didn't have any
 22 restrictions.
 23 Q. Do you know when it expired?
 24 MR. HSU: Note my objection. He
 25 didn't say expired, he said that they

Page 150

1 M. DIAZ-DIAZ
 2 MR. HSU: Answer the question.
 3 A. When I was driving.
 4 Q. Do you remember who told you that
 5 you have to wear glasses while driving for the
 6 first time?
 7 MR. HSU: If anyone.
 8 A. The authorities from the motor
 9 vehicle.
 10 MR. PLATTA: John, that's what I
 11 was looking for.
 12 MR. HSU: Obviously. Who do you
 13 think told him, Jesus Christ? You just
 14 asked him the same question. I'm trying
 15 to give you leeway on your stupid
 16 questions. You are asking him the same
 17 questions five different ways about if
 18 he has a restriction on his driver's
 19 license, so DMV told him and then you
 20 are asking who.
 21 MR. PLATTA: You are using certain
 22 words that you shouldn't.
 23 MR. HSU: It's ridiculous.
 24 MR. PLATTA: It's on the record
 25 also.

Page 149

1 M. DIAZ-DIAZ
 2 they punched it.
 3 A. I never, it never expired. When I
 4 got my Class A license my Class C license was
 5 turned over.
 6 MR. HSU: It was terminated.
 7 Q. When was it terminated?
 8 A. They changed it, I don't recall
 9 right now.
 10 Q. Do you remember who told you that
 11 you had to wear glasses, if anyone, while
 12 driving?
 13 MR. HSU: Are you serious after we
 14 went through every doctor that he saw?
 15 MR. PLATTA: I'm asking him about
 16 who told him.
 17 MR. HSU: The eye doctor that said
 18 he has to wear it to drive.
 19 MR. PLATTA: You have to stop or
 20 we'll bust the deposition, we can't do
 21 it.
 22 MR. HSU: Bust it. Who cares, I
 23 can come back for another two days.
 24 MR. PLATTA: He can't leave while a
 25 question is pending.

Page 151

1 M. DIAZ-DIAZ
 2 MR. HSU: I'm glad it's on the
 3 record, if anybody could actually read
 4 this, it's unbelievable.
 5 MR. PLATTA: Can you tell, read
 6 back the last question.
 7 [Whereupon, the requested portion
 8 of the record was read back by the Court
 9 Reporter.]
 10 MR. HSU: Besides when he got his
 11 eye examined?
 12 MR. PLATTA: Yes.
 13 MR. HSU: When you got your eyes
 14 examined, did they tell you that you had
 15 to wear glasses?
 16 MR. PLATTA: Counselor, I have a
 17 different question, please let me go
 18 forward unless he doesn't understand my
 19 question.
 20 A. It was when I made the transition
 21 from C to A when I took the road test.
 22 Q. Do you remember the year?
 23 MR. HSU: He testified that he
 24 didn't recall it. Don't answer that
 25 again.

11 (Pages 148 to 151)

Page 152

1 M. DIAZ-DIAZ

2 MR. PLATTA: Note your objection.
3 I don't think it's in the record.4 MR. HSU: You don't think that you
5 didn't ask when he changed it from the C
6 to A. Do you know when you changed your
7 license from C to A?8 THE WITNESS: I don't recall
9 exactly.

10 Q. More or less, can you estimate?

11 MR. HSU: If you are able, don't
12 guess.13 MR. PLATTA: All questions are what
14 you can.15 A. I can't, I can't, I don't have the
16 exact date.

17 Q. Was it before 2000?

18 A. No.

19 Q. Was it before 2005?

20 A. Yes, it was before 2005, yes.

21 Q. At the time when you were told to
22 wear glasses while driving, did you actually
23 have any prescriptions filled out for your
24 glasses?

25 MR. HSU: Are you now asking him

Page 154

1 M. DIAZ-DIAZ

2 [Whereupon, the requested portion
3 of the record was read back by the Court
4 Reporter.]

5 A. When I took the road test.

6 Q. At the time that DMV told you that
7 you had to wear glasses while driving, did you
8 have a prescription for glasses already?

9 A. I already had my glasses.

10 Q. Okay. Do you remember at the time
11 when the DMV told you to wear glasses, did they
12 somehow measure your eye vision or anything
13 about your eyes?14 MR. HSU: He said that he had a DMV
15 driver's license.16 MR. PLATTA: I'm asking him whether
17 he had to wear his glasses in 1999,
18 that's not the same time.

19 MR. HSU: Are you kidding?

20 MR. PLATTA: No.

21 Q. He testified that he had an eye
22 examine for DMV at the beginning of the year?23 MR. HSU: And he continues to wear
24 eyeglasses and you asked him, does he
25 continue to get an eye examinations.

Page 153

1 M. DIAZ-DIAZ

2 about his prescription that he testified
3 to?4 MR. PLATTA: I'm asking if he had a
5 prescription for glasses at the time and
6 he was told by DMV that he had to wear
7 glasses?8 MR. HSU: He said it was before
9 2005, correct?

10 MR. PLATTA: Correct.

11 MR. HSU: And then we known his eye
12 history before 2005. What am I missing?

13 MR. PLATTA: I'm missing an answer.

14 MR. HSU: What hadn't been asked if
15 you actually know if you hadn't already
16 asked it.17 MR. PLATTA: John, if you have an
18 objection.

19 MR. HSU: It's asked and answered.

20 MR. PLATTA: Take your time.

21 MR. HSU: Do you want to read his
22 20 pages about prescriptions? If you
23 want to read his testimony, go ahead.
24 Read back the last question. You are on
25 a short leash.

Page 155

1 M. DIAZ-DIAZ

2 This is like, I don't know, ask him the
3 question.

4 MR. PLATTA: Repeat the question.

5 [Whereupon, the requested portion
6 of the record was read back by the Court
7 Reporter.]8 A. As I said before, when you go to
9 Department of Motor Vehicles, they ask you to
10 look into this apparatus. At that time they
11 did not tell me that I needed eyeglasses, I
12 went to get eyeglasses on my own accord from
13 the eye doctor.14 Q. At the time that you went to DMV,
15 did they check your eyes?16 A. They didn't tell me because the
17 time that I went, my eyesight was good.

18 MR. PLATTA: Off the record.

19 [Discussion held off the record.]

20 MR. HSU: Read this please first.
21 Off the record.

22 [Discussion held off the record.]

23 Q. Sir, when you testified before that
24 the DMV told you that you had to wear glasses
25 when you were driving, can you tell me at that

12 (Pages 152 to 155)

Page 156

1 M. DIAZ-DIAZ
 2 moment, did they test your vision or how did
 3 they base their opinion, if you know?
 4 A. At the time I don't recall very
 5 well. However, when I went to take the road
 6 test that restriction was already in my
 7 document and when they asked me to produce
 8 those documents, I didn't have them and I had
 9 to go back and get them.
 10 Q. What documents?
 11 A. It's the application for getting
 12 the driver's license.
 13 Q. Do you have a copy of this
 14 application somewhere at home?
 15 A. I doubt it, I believe not.
 16 Q. Was it for a Class C, D or A
 17 driver's license?
 18 A. That was for the road test of Class
 19 A license.
 20 * Q. Between 1999 when you first got
 21 your driver's license and 2007, did DMV check
 22 your eye vision at all?
 23 MR. HSU: He testified that he had
 24 an eye examine when he got his driver's
 25 license.

Page 158

1 M. DIAZ-DIAZ
 2 MR. HSU: Objection. Do you know
 3 what the reason was for this
 4 restriction?
 5 A. That's part of the procedure when
 6 you are going to get your driver's license when
 7 you go to take your examine before they put
 8 that little camera to see if you are doing
 9 well, and that's where they deduce whether you
 10 need eyeglasses or not.
 11 Q. Is this what happened in your case
 12 where they put the restriction on your driver's
 13 license?
 14 MR. HSU: Objection to form.
 15 A. In my first examination in 1999 it
 16 happened, but they didn't give me any
 17 restrictions.
 18 Q. And then subsequently it changed?
 19 MR. HSU: Subsequently what?
 20 MR. PLATTA: He had another examine
 21 for a change of driver's license.
 22 MR. HSU: He never testified he had
 23 another examine. He testified to change
 24 the license.
 25 Q. At the time that you changed his

Page 157

1 M. DIAZ-DIAZ
 2 MR. PLATTA: I accept that.
 3 MR. HSU: This is asked and
 4 answered. Don't answer that question.
 5 Next. Mark it for a ruling, it's asked
 6 and answered.
 7 MR. PLATTA: Off the record.
 8 [Discussion held off the record.]
 9 MR. PLATTA: Back on the record.
 10 Q. Sir, do you know what was the basis
 11 for DMV to give you a restriction on your
 12 driver's license?
 13 A. That is part of the procedure when
 14 you go to fill out the forms for a driver's
 15 license.
 16 MR. HSU: Read back the last
 17 question and answer.
 18 [Whereupon, the requested portion
 19 of the record was read back by the Court
 20 Reporter.]
 21 Q. Sir, you testified before that you
 22 didn't have any restrictions on your driver's
 23 license in 1999 when you first obtained it and
 24 then you got this restriction sometime
 25 afterwards?

Page 159

1 M. DIAZ-DIAZ
 2 license, did the condition change?
 3 A. When I changed my driver's license
 4 to Class A yes, it changed.
 5 Q. Was it the first time?
 6 A. Yes.
 7 Q. As a result of that at the time at
 8 DMV when you changed your driver's license to
 9 Class A, did you have to go to see any doctor
 10 for any new prescription for your glasses?
 11 A. Yes, I went to a doctor for him to
 12 prescribe eyeglasses to me, but the Motor
 13 Vehicles did not send me. As I told you, I
 14 went by my own accord.
 15 Q. You went on your own accord before
 16 the DMV test or before?
 17 MR. HSU: He never said that he had
 18 a test.
 19 MR. PLATTA: He said that he had a
 20 test during the course of his driver's
 21 license.
 22 MR. HSU: When you renewed your
 23 driver's license, did you have a test
 24 for DMV?
 25 A. With the Department of Motor

13 (Pages 156 to 159)

Page 160

1 M. DIAZ-DIAZ
 2 Vehicle it was with the question of reading the
 3 maps.
 4 Q. What about the moment that you said
 5 that you used the machine to check your eyes?
 6 MR. HSU: He said that was in 1999
 7 and they said that he didn't need
 8 glasses.
 9 MR. PLATTA: Off the record.
 10 [Discussion held off the record.]
 11 Q. Sir, when you changed your driver's
 12 license from Class A, was it the first time
 13 when your eye test with DMV came back positive
 14 basically showing you that had you to wear
 15 glasses?
 16 MR. HSU: Objection to form. He
 17 never testified to that.
 18 Q. Did you have an eye exam when you
 19 changed your license to Class A?
 20 A. No.
 21 MR. HSU: No, for the fourth time
 22 in a row.
 23 Q. So is it fair to say that the only
 24 time that you had this eye test was the only
 25 time at the very beginning when you had your

Page 162

1 M. DIAZ-DIAZ
 2 doctor told me that I have to have examination
 3 for glaucoma and I didn't go back to her, I
 4 went to another doctor and spent \$400 in order
 5 for them to tell me that I didn't have
 6 glaucoma.
 7 MR. HSU: If you read the
 8 transcript you would know that.
 9 Q. Have you ever had any surgery done
 10 to your eyes?
 11 A. No, sir.
 12 Q. Have you ever been disciplined at
 13 your work at All American Haulers and
 14 Recycling?
 15 A. Are you asking me if they called
 16 something to my attention, if they told me
 17 something?
 18 Q. Yes.
 19 A. No.
 20 Q. Did you ever receive a reprimand
 21 for doing something wrong as a driver, any
 22 complaints?
 23 MR. HSU: Objection to the form.
 24 A. No.
 25 Q. Did you wear glasses at the time of

Page 161

1 M. DIAZ-DIAZ
 2 first driver's license from DMV?
 3 A. It was my license for the first
 4 time that I did the examine the first time,
 5 yes.
 6 Q. Was it the only time?
 7 A. Afterwards they saw my eyeglasses
 8 on me and that's when they gave me the
 9 restriction.
 10 Q. Fine.
 11 MR. PLATTA: Off the record.
 12 [Discussion held off the record.]
 13 MR. PLATTA: Back on the record.
 14 Q. Sir, when was the first time that
 15 you were diagnosed with a glaucoma condition?
 16 A. I told you and it's there. I don't
 17 recall right now, but I don't recall but I told
 18 you and it's in there.
 19 Q. Fine. Do you remember at the time
 20 when DMV told you that you have to wear
 21 glasses, did you have this condition, did have
 22 you glaucoma?
 23 MR. HSU: Object to the form.
 24 A. I have never had glaucoma. I went
 25 to a doctor and when she told me and the first

Page 163

1 M. DIAZ-DIAZ
 2 the accident?
 3 MR. HSU: This was already asked
 4 and answered, you asked it.
 5 MR. PLATTA: Believe me, I'm not
 6 trying to be. Off the record.
 7 [Discussion held off the record.]
 8 MR. PLATTA: Back on the record.
 9 Read back the last question.
 10 [Whereupon, the requested portion
 11 of the record was read back by the Court
 12 Reporter.]
 13 A. Yes, surely.
 14 Q. Was it the same glasses as have you
 15 today or not?
 16 A. They are not the same glasses, no.
 17 Q. As an employee of all American
 18 Haulers Recycling, did you receive a speeding
 19 ticket?
 20 MR. HSU: Objection.
 21 A. No.
 22 Q. Were you issued any tickets for
 23 moving violations while working for All
 24 American Haulers?
 25 MR. HSU: Note my objection,

14 (Pages 160 to 163)

<p>1 M. DIAZ-DIAZ 2 please. 3 A. No. 4 Q. Sir, I'm going to move to the 5 moment of the accident, and I'll only ask you 6 what you saw in a certain period of time. 7 MR. HSU: That's already all done. 8 It doesn't matter if it's not the same 9 question. It's the same questions asked 10 and answered. Why are you going back? 11 Off the record. 12 [Discussion held off the record.] 13 MR. HSU: Back on the record. 14 * Q. Sir, within 10 seconds before the 15 accident, where did you look? 16 MR. HSU: Objection, answered. 17 Next question. 18 MR. PLATTA: Mark it for a ruling. 19 * Q. Sir, five seconds before the 20 accident, where did you look? 21 MR. HSU: Asked and answered. Next 22 question. 23 MR. PLATTA: Mark it for a ruling. 24 John, you are buying yourself a motion 25 and it's not because of me.</p>	<p>Page 164</p> <p>1 M. DIAZ-DIAZ 2 A. The same car. 3 Q. Anything else besides this car? 4 A. I was trying to avoid it in order 5 not to hit it. 6 Q. What were you doing to try to avoid 7 it? 8 MR. HSU: Note my objection. 9 Answered. Hurry up, answer. 10 A. I braked. 11 Q. Anything else? 12 A. To brake with everything that I 13 could. 14 Q. Anything else? 15 A. I don't recall anything else, I 16 only braked I don't recall now. 17 Q. Was your truck at the time of the 18 accident, equipped with a chromometer or 19 something that measures the time in your car? 20 A. That I recall, I don't know if 21 there are any trucks that have a chromometer 22 but if they have a computer it tells us when 23 the truck was turned on. 24 MR. HSU: Do you have one, just 25 answer. Your truck, do you know if you</p>
<p>1 M. DIAZ-DIAZ 2 MR. HSU: You know, Slawek. Off the 3 record. 4 [Discussion held off the record.] 5 MR. HSU: Back on the record. 6 Q. Sir, what did you see in front of 7 you 20 seconds before the accident? 8 A. 20 seconds before? 9 Q. Yes. 10 MR. HSU: Don't answer that 11 question, answered. 12 Q. What did you see in front of you 10 13 seconds before the accident, what did you see 14 in front you 10 seconds before the accident? 15 A. The vehicle. 16 MR. PLATTA: Mark for a ruling the 17 other questions that were objected to. 18 Q. What kind of vehicle, the one that 19 had you the accident with? 20 A. A Toyota, Four by Four. 21 Q. At that time did you see anything 22 else? 23 A. No, only that. 24 Q. Five seconds before that, what did 25 you see in front of your truck?</p>	<p>Page 165</p> <p>1 M. DIAZ-DIAZ 2 had one? 3 THE WITNESS: My truck does not 4 have a chromometer. 5 Q. Did you have any kind equipment 6 that measured the time or distance that you 7 traveled? 8 A. I believe not, but I don't know. 9 Q. Do you know who would know? 10 A. I don't know who would know. I 11 don't know. 12 Q. Do you know where the maintenance 13 records for this truck that was involved in the 14 accident, where are they maintained? 15 A. I told you the last time that I 16 didn't know. 17 Q. And I think my last question sir, 18 do you remember filling out a similar report, 19 like a police report it's called an MV-104? 20 MR. HSU: You asked about this. 21 This is where if he filled out an 22 incident report. 23 Q. Did you fill out a form that is 24 called an MV-104 it looks like a police report? 25 A. No, I didn't fill anything out like</p>

Page 168

Page 170

1 M. DIAZ-DIAZ

2 that.

3 Q. Sir, when you testified before
 4 about the doctor that you saw for glaucoma, did
 5 you see anyone else after you saw this doctor
 6 besides what you already testified in 2007, did
 7 you see any other doctors in between?

8 MR. HSU: For what, glaucoma?

9 MR. PLATTA: Any eye condition.

10 MR. HSU: Did you ever see a doctor
 11 for anything other than an eye
 12 condition?

13 THE WITNESS: No for another
 14 condition, no.

15 (Continued on the next page.)

1
 2 ERRATA SHEET
 3 CASE NAME: ADONNA FROMETA against MARIO E.
 4 DIAZ-DIAZ ALL AMERICAN HAULERS RECYCLING
 4 DATE OF DEPOSITION: January 11, 2008
 WITNESS' NAME: MARIO DIAZ-DIAZ

5 PAGE/LINE(S)/ CHANGE REASON
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21 _____ MARIO DIAZ-DIAZ
 22 SUBSCRIBED AND SWEARN TO
 BEFORE ME THIS _____ DAY
 23 OF _____, 2008.

24 _____ NOTARY PUBLIC

1 M. DIAZ-DIAZ

Page 169

Page 171

3 MR. PLATTA: I reserve my right for
 4 a further deposition of this witness. I
 5 deem this deposition incomplete due to
 6 the improper objections during this
 7 deposition.

8 (Whereupon, at 7:30 P.M., the
 9 Examination of this Witness was
 10 concluded.)

12 _____
 13 MARIO DIAZ-DIAZ

14 Subscribed and sworn to before me
 15 this _____ day of _____, 2007.

16 _____
 17 NOTARY PUBLIC

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 2
 3
 4 INFORMATION AND/OR DOCUMENTS REQUESTED
 5 INFORMATION AND/OR DOCUMENTS PAGE
 6 The year and month of when restrictions were
 7 put on driver's license 144

8
 9
 10 QUESTIONS MARKED FOR RULINGS

11 PAGE LINE
 12 156 20
 13 164 14
 14 164 19

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16 (Pages 168 to 171)

1 CERTIFICATE
2
34 STATE OF NEW YORK)
5 : SS.:
6 COUNTY OF QUEENS)
78 I, LORRAINE DeSALVIO, a Notary Public
9 for and within the State of New York, do hereby
10 certify:11 That the witness whose examination is
12 hereinbefore set forth was duly sworn and that
13 such examination is a true record of the
14 testimony given by that witness.15 I further certify that I am not related
16 to any of the parties to this action by blood
17 or by marriage and that I am in no way
18 interested in the outcome of this matter.19 IN WITNESS WHEREOF, I have hereunto set
20 my hand this 20th day of January, 2008.21
22 23 LORRAINE DeSALVIO
24
25